

REMARKS/ARGUMENTS

Reconsideration of this application is requested. Claims 18-24, 28-30 and 33-54 are pending in the application subsequent to entry of this Amendment. Response is now provided to the issues raised in the outstanding Official Action in the order presented.

Response to Claim Rejection Under 35 USC §112

In order to advance examination claim 27 has been canceled as it is directed to substantially the same subject matter as claim 18.

Claim 54 is objected to as being unclear with respect to the term "lightly sweetened". Although not specifically mentioned in the examiner's letter, claim 37 is potentially subject to the same criticism.

Applicants intend to define what is meant by "lightly sweetened" in accordance with the description of the invention and standards in the relevant industry.

As described in the specification at page 26, lines 13-16, the present invention can be suitably used when the flavor can be judged without the influence of sweetness, such as in cases with substantially no addition of sweet components or with only light sweetening. In view of this particular advantage, claims 37 and 54 are directed to this subject matter.

It is generally known in this art that coffee beverage products filled in a container contain about 6 g of a sweet component per 100 g of the beverage, and that "lightly sweetened" coffee beverage products contain no more than 2.5 g of a saccharide as a sweet component per 100 g of the beverage.

The expression "sweet component" is clarified in claims 37 and 54 and directed to a saccharide of which many examples are given in the paragraph bridging pages 12 and 13 of the description. The value of not more than 2.5 g of saccharide per 100 g of the beverage (or 2.5 wt%) is derived from the Japanese Standards for Nutritional Labeling. As evidence of this attached are copies of the relevant standard and a partial English translation of the relevant section relating to sweetening components for soft drinks as listed in column 3, particularly addressed as to saccharides.

The amendments made to claims 37 and 54 thus respond directly to the examiner's comments and serve to further clarify and define the intent of these two claims. Reconsideration and withdrawal of the rejection is requested.

Response to Claim Rejections Under 35 USC §102 and §103

Claims 18-24, 27-30, 33-37

As stated in the applicants' most recent response and as also noted in the Office Action mailed September 21, 2005, the problem to be solved in Sasagawa et al was the sliminess and bad after-taste of drinks when sodium salts are used for pH adjustment to avoid precipitates in the drinks. Sasagawa et al attempt to solve this problem by adding potassium salts. Applicants again emphasize that Sasagawa et al does not disclose the use of any strongly basic substances other than phosphate salts and potassium hydroxide.

The Examiner states in the Office Action mailed September 21, 2005 that *"although Sasagawa et al prefer using a phosphate salts alone or in combination with potassium compounds, same is not required. In fact, Sasagawa et al disclose the use of, for example, potassium hydroxide taken alone (see col. 3, line 33) which reads on the instant claims that call for the presence of a strong basic substance other than a phosphate salt"*.

However, the paragraph including the examiner-selected passage at col. 3, line 33 relates not to a specific kind of beverage but to generic beverages. In addition, the paragraph is silent on any expected effects obtained by using potassium hydroxide alone. Thus, it cannot be recognized that Sasagawa et al disclose the use of potassium hydroxide alone in the context of a milk-added coffee which the present invention relates to, and even based on the disclosure of Sasagawa et al, those skilled in the art can not expect any effects brought by the use of potassium hydroxide or any strongly basic substance in the milk-added coffee beverages.

In addition, Sasagawa et al describe preferred embodiments suitable for coffee drinks in which the potassium salts are used in the combination being in the range of 10-100% by weight of potassium carbonate and 90-0% by weight of dipotassium hydrogenphosphate and/or potassium hydroxide (col. 3, lines 47-51). Namely, as for coffee drinks (to which the claims of the subject application are directed), the combined use of potassium hydroxide with potassium carbonate is required by Sasagawa et al; indeed, such a description teaches away from the use of potassium hydroxide alone.

Consequently, those skilled in the art would not arrive at the use of any strongly basic substance for preventing precipitates in a milk-added coffee beverage even based on the

disclosure of Sasagawa et al. Thus, the present invention is novel and unobvious from Sasagawa et al.

Claims 38-54

These claims are directed to the subject matter substantially identical to previous claims 25, 26, 32 and 33, which the Office determined to be patentable in the Office Action mailed March 10, 2005. Allowability was confirmed in the Office Action mailed on May 19, 2005; i.e. the prior art of record does not disclose or teach the use of basic amino acids in a heat sterilized milk-containing coffee beverage. The Office has determined the subject matter of these claims to be patentable and they remain so today.

As stated in the previous argument, although the addition of an amino acid to a beverage is known to improve the flavor and taste of the beverage, it is neither disclosed nor suggested that the addition of the strongly basic amino acid can prevent precipitates in a milk-added coffee beverage. The examiner will note claims 18-29 and 38-47 are directed to methods of suppressing formation of precipitates, not compositions.

Additionally, applicants emphasize the following points:

Although it is well known to those skilled in the art that amino acids can be classified into acidic, neutral and basic amino acids, the basic amino acids are purposely excluded from lists of examples in the prior art documents. This also supports the conclusion that those skilled in the art would not expect the objective, the composition and the advantageous effects of the present invention, and thus applicants' claims are both novel and unobvious.

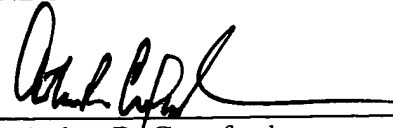
For the above reasons it is respectfully submitted that the claims of this application define inventive subject matter and are compliant with 35 USC §112, second paragraph in terms of claim clarity. Reconsideration and favorable action are solicited.

YOKOO et al
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Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____



Arthur R. Crawford
Reg. No. 25,327

ARC:eaw
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100